IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.W.P.No 20128 of 2005

Date of decision: 2-5-2007

Vikash Gupta Vs. State of Haryana

CORAM:- HON'BLE MR. JUSTICE K.S.GAREWAL
HON'BLE MR. JUSTICE AJAI LAMBA

Present: Shri Arun Jain, Advocate,
for the petitioner

Shri H.S.Hooda, Advocate General Haryana assisted by
Shri Ashish Kapoor, Additional Advocate General Haryana.

K.S.GAREWAL,J.

Vikas Gupta has filed this petition to challenge notifications under Section 4 and 6 dated November 15, 2002 and November 12, 2003 respectively.

The petitioner's case is that he purchased 3 bighas 12 biswas of land in Begampur Khatola in District Gurgaon for expansion of his business of manufacturing designer items for export under the name and style of Ranvik Export Pvt. Ltd. The company's works were located in Delhi Industrial Area, New Delhi and at Plot No. 58, Sector 3, IMT, Manesar, Haryana. The acquired land was purchased in 1998 for the purpose of expansion of the business.

Notification under Section 4 of the Land Acquisition Act was issued on November 15, 2002. The petitioner did not file any objection under Section 5-A of the Act. Declaration under Section 6 of the Act was issued on November 12, 2003.

It was on November 17, 2005 that the petitioner received a notice from Land Acquisition Collector, Gurgaon, under Section 9 of the Act. This notice has been annexed with the petition as Annexure P-7. It was only after he received the notice that the petitioner learnt that his land had been acquired. The petitioner was left with no time to appear before the Collector because the Collector announced the award on November 18, 2005 and included the petitioner's land amongst the lands acquired for acquisition.

According to the learned counsel for the petitioner, Section 9 of the Land Acquisition Act provides that the Collector shall give a personal notice stating that possession of land is to be taken and claim for compensation may be made to him. The notice shall also mention the time and place where the Collector shall personally hear the persons interested in the land to be acquired. The notice given by the Collector shall be of atleast 15 days. According to the learned counsel, the Collector's notice which was received by him was for hearing on November 9, 2005. The petitioner was not given 15 days clear notice and had too little time to prepare the case and appear before the Collector. Therefore, the proceedings before the Collector and the award as well the notifications under Section 4 and 6 deserve to be quashed.

Petitioner has also relied upon letter dated October 31, 2005 from Director of Industries to Land Acquisition Collector (Annexure P-12--collectively) wherein the Collector was requested to announce the award positively before November 11, 2005. This message was sent through fax and the Collector on November 5, 2005 replied asking whether the award should be announced without complying with the mandatory provisions of

Section 9.

It is quite clear that the Annexure P-12(collectively) seems to indicate that some confusion had incurred in respect of the announcement of the award about the notice under Section 9 of the Act. The letter of Director of Industries dated October 31, 2005 shows that High Powered Committee had been constituted to consider grievance of the land owners and its decision was taken October 18, 2005. Therefore, the Director was concerned that award must be passed before the notification lapsed.

We do not find anything on the record to show that the award announced on November 18, 2005 (Annexure P-11) had been passed after the notification had expired. The award mentions that the declaration under Section 6 was published in the gazette on November 12, 2003, in the Hindi Newspaper on November 19 and in Hari Bhoomi on November 21. Therefore, taking November 21, 2003 as last date of publication, the award passed on November 18, 2005 was clearly within the prescribed time limit.

Furthermore, the Collector in his award categorically mentioned that the land owners had been given notice under Section 9 of the Act and had been called upon to appear before on various dates between November 7 and 9. The land owners of Begampur Khatola had been called on November 9, 2005 and those turned up were given personal hearing. They demanded compensation at the rate of Rs. 5000/- to Rs. 50,000/- per square yard but in order to substantiate their claims they did not produce any documentary evidence. Even during the hearing of the petition the petitioner was unable to produce any document or proof in support of his claim for compensation. He was unable to state what evidence he would have produced before the Collector in case he had indeed appeared in

response to the notice under Section 9. We are of the firm view that the proceedings under Section 9 were quite legal and valid and could not be subject to challenge on the basis of some dubious faxes exchanged between Director of Industries and the Collector.

We find no merit in this petition. This petition is hereby dismissed.

(K.S.GAREWAL)
JUDGE

(AJAI LAMBA)
JUDGE

May 2, 2007
RSK